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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न रूप उच्चावो जाती है जिससे कि यह प्रलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
 as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the
 2nd August, 1991:—

I

BILL No. XXXIII OF 1991

A Bill further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1991.

Short title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 2nd day of May, 1991.

Amend-
ment of
section
197.

of 1974. 2. In section 197 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code of Criminal Procedure),—

(a) in sub-section (1), to clause (b), the following proviso shall be added, namely:—

'Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted.'

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.”.

3. (1) The Code of Criminal Procedure (Amendment) Ordinance, 1991 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Code of Criminal Procedure, as amended by the said Ordinance, shall be deemed to have been done or taken under the Code of Criminal Procedure, as amended by this Act.

Ord. 4
of 1991.

STATEMENT OF OBJECTS AND REASONS

Section 197 of the Code of Criminal Procedure, 1973 provides for the previous sanction of the Central Government or, as the case may be, the State Government before a court took cognizance of an offence alleged to have been committed by any public servant including a Judge, Magistrate and member of the Forces while acting in the discharge of official duty.

2. With a view to providing more adequate safeguards and protection to public servants employed in connection with the affairs of a State against frivolous or vexatious prosecution for acts done in the discharge of official duty during the period when a Proclamation issued under article 356 of the Constitution was in force in that State, it was considered necessary to provide for the previous sanction of the Central Government instead of the sanction of the State Government.
3. In view of the above, an Ordinance was promulgated on the 2nd May, 1991 to amend section 197 of the said Code.
4. The Bill seeks to replace the aforesaid Ordinance.

S. B. CHAVAN.

II

BILL No. XXXII of 1991

A Bill further to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Terrorist and Disruptive Activities (Prevention) Amendment Act, 1991.

(2) It shall be deemed to have come into force on the 2nd day of May, 1991.

2. In the Terrorist and Disruptive Activities (Prevention) Act, 1987 (hereinafter referred to as the principal Act), in section 1, in sub-section (4), for the words "four years", the words "six years" shall be substituted.

3. (1) The Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Ord. 5
of 1991.

Short title and commencement.

Amendment of section 1 of Act 28 of 1987.

Repeal and saving.

STATEMENT OF OBJECTS AND REASONS

The Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987) was enacted to replace the Terrorist and Disruptive Activities (Prevention) Ordinance, 1987 (Ord. 2 of 1987) with effect from the 24th May, 1987 to meet the extraordinary situation created by widespread terrorist violence in many parts of the country. It was expected that it would be possible to overcome this problem to a large extent within a period of two years. It was, therefore, provided in the said Act that it would remain in force for a period of two years, that is, till the 23rd May, 1989. The life of the said Act was further extended by two years, that is, up to the 23rd May, 1991, through the Terrorist and Disruptive Activities (Prevention) Amendment Act, 1989. In view of the fact that the Act was expiring on the 23rd May, 1991 and the terrorist violence still continued unabated, it was decided to further extend the said Act by two years. Since the House of the People had been dissolved and the Council of States was not in session and the circumstances existed which rendered it necessary for him to take immediate action, the President was pleased to promulgate the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991 (Ord. 5 of 1991) on the 2nd May, 1991 for this purpose.

2. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI:
The 22nd July, 1991.

S. B. CHAVAN.

FINANCIAL MEMORANDUM

Section 9 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 provides for constitution of Designated Courts by the Central Government or the State Government, and also for appointment of Judges and Additional Judges of those Courts. Section 13 of the said Act provides for appointment of Public Prosecutors, Additional Public Prosecutors and Special Public Prosecutors by the Central Government or the State Governments, as the case may be.

2. The expenditure towards the setting up of Designated Courts by the State Governments and towards salaries and allowances of the Judges, Public Prosecutors and staff of such Courts will be defrayed out of the Consolidated Funds of the States. The expenditure towards setting up of Designated Courts by the Central Government in a State or Union territory (other than the Union territory of Puducherry) will be met out of the Consolidated Fund of India. The provisions of the said Act were extended for a period of two years with effect from the 24th May, 1989. The provisions of the said Act have been further extended for a period of two years with effect from the 24th May, 1991, by promulgation of the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991 on the 2nd May, 1991. It is proposed to replace the said Ordinance by an Act of Parliament. The likely expenditure on each Designated Court and on the salaries and allowances of the Judges, Public Prosecutors, Additional Public Prosecutors, staff, etc., over a period of six months, is expected to be about Rs. 7 lakhs, out of which Rs. 3.5 lakhs will be of a recurring nature and Rs. 3.5 lakhs of a non-recurring nature. As it is not possible at this stage to visualise the number of such Courts that may have to be established, it is, therefore, not possible to give an estimate of actual expenditure that may have to be incurred in this behalf.

SUDARSHAN AGARWAL,
Secretary-General.